

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In the Matter of)	
)	
Allocation and Designation of Spectrum for)	
Fixed-Satellite Services in the 37.5-38.5 GHz,)	
40.5-41.5 GHz and 48.2-50.2 GHz Frequency)	
Bands; Allocation of Spectrum to Upgrade)	IB Docket No. 97-95
Fixed and Mobile Allocations in the 40.5-)	
42.5 GHz Frequency Band; Allocation of)	RM-8811
Spectrum in the 46.9-47.0 Frequency Band for)	
Wireless Services; and Allocation of Spectrum)	
in the 37.0-38.0 GHz and 40.0-40.5 GHz for)	
Government Operations)	

REPLY COMMENTS OF DCT SPIRIT, L.L.C.

DCT Spirit, L.L.C. ("Spirit") hereby submits its comments in response to certain comments submitted at the invitation of the *Further Notice of Proposed Rulemaking* ("FNPRM") issued in the above-captioned proceeding.

Spirit purchased 39 GHz licenses in Auction # 30 that ended only recently, on May 8, 2000. These licenses expire October 18, 2010. It is less than a year since we and other high bidders paid for our terrestrial fixed service ("TFS") licenses with the expectation that we will have the opportunity to put them to their highest and best use in the public interest as, when and where appropriate during the renewable ten year grant period.

Now the Commission is urged by some, but by far less than all, interested fixed satellite service concerns to effectively divert large portions of the 39 GHz

band from TFS to fixed satellite service ("FSS").¹ In brief, these FSS interests argue that their speculative TFS uses for the band should take priority over existing TFS uses of the band, just because of recent, broad-based financial setbacks that have unexpectedly racked the entire competitive telecommunications industry. This is hardly a showing that should be considered sufficient to overturn the Commission's licensing, auction and international negotiation positions for the band.

These FSS interests neglect to mention that TFS licensees operating within the 24-39 GHz range have been providing mission critical primary and redundant telecommunication services to a broad array of commercial and institutional customers in small and large markets. The need for the type of fast, reliable and diverse broadband communications routing that TFS providers uniquely deliver was unfortunately driven home by the attacks our nation suffered on September 11, 2001. Despite severe financial reversals, Winstar in particular has offered a shining example of what our still nascent industry is all about by voluntarily restoring voice and data service to numerous government facilities in

¹ Comments of The Boeing Company, IB Docket No. 97-95, at 4, 9 (filed Sept. 4, 2001); Comments of Hughes Communications, Inc., IB Docket No. 97-95, at 6, 11, 12 (filed Sept. 4, 2001); and Comments of TRW Inc., IB Docket No. 97-95, at 24-25 (filed Sept. 4, 2001). Boeing wants to allocate the 37.6-38.6 GHz band for FSS. Hughes wants unrestricted earth station deployment in that subband, in derogation of the Commission's preliminary determination that the band should host only a small number of gateway earth stations. TRW asks the Commission to make TFS operations in that subband secondary to earth station operations, insofar as TRW would have no PFD limits on earth station use relative to TFS operations.

The Satellite Industry Association has filed comments that appear to disagree with those of the foregoing satellite interests. See Comments of Satellite Industry Association, IB Docket No. 97-95, at 2 (filed Sept. 4, 2001).

and around New York City and Washington, DC as well as doubling in-bound phone lines at the American Red Cross in Philadelphia.

We are especially concerned about Hughes', TRW's and Intelsat's request to lift restrictions on satellite earth station deployment, embodied in the TFS-essential individual customer gateway limitation in the 37.5-40 GHz band.² The Commission in the NPRM supported the WRC-2000 designation of the 37.0-40.0 GHz and 42.5 GHz bands for terrestrial services and the 40.0-42.0 GHz band for satellite. Based upon that decision, the TFS industry purchased 38.6-40.0 GHz band licenses at auction. The satellite proposals, if put into effect, would increase earth station deployments within area-wide TFS licenses, thereby causing numerous coordination and interference concerns. Ergo, watering down Commission language would affect existing TFS operations and limit future TFS growth, as well as call into question the wisdom of bidding on Commission-auctioned spectrum.

We also urge the Commission to reject the FSS industry requests to increase allowed satellite power levels and time limitations thereof.³ The FSS positions, if adopted, essentially overturn improvements of WRC-2000 and would result in unacceptable levels of harmful radiation for unacceptable amounts of time. The specific rules changes proposed by TRW⁴ must be rejected in favor of

² Hughes Comments, at 11-12; TRW Comments, at 26; Comments of Intelsat Global Service Corporation, at 9.


³ TRW Comments, at 21-26 and 34-38; Hughes Comments, at 10; Intelsat Comments, at 7-9; Satellite Industry Association Comments, at 3.

⁴ TRW Comments, Annex, at 34-38.

Commission rules in Section 25.208 that comport with the Commission's stated intent to protect TFS operations below 40 GHz.

Respected Submitted,

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CERTIFICATE OF SERVICE

I, Jennifer L. Roy, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 3rd day of October, 2001, caused to be sent by first-class U.S. mail, postage-prepaid, a copy of the foregoing Reply Comments to the following:

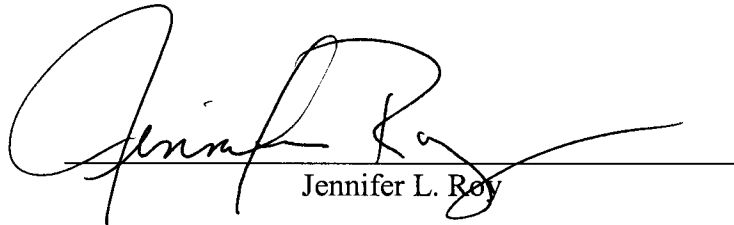
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